

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION

JAMES McCONICO, JR., #117 395,        )  
    )  
Plaintiff,                                )  
    )  
v.                                        )     CASE. 2:22-CV-145-WHA-CSC  
    )     [WO]  
MARY COOK, et al.,                    )  
    )  
Defendants.                            )

**RECOMMENDATION OF THE MAGISTRATE JUDGE**

Plaintiff, an inmate incarcerated at the Easterling Correctional Facility, filed this *pro se* 42 U.S.C. § 1983 action on January 3, 2022.<sup>1</sup> On March 28, 2022, the undersigned entered an Order which directed Plaintiff to file—by April 11, 2022—either the \$402.00 filing and administrative fees or an affidavit in support of a motion for leave to proceed *in forma pauperis*, and also informed Plaintiff his failure to comply with the March 28 Order would result in dismissal of this action. Doc. 10. The Court twice extended the deadline for Plaintiff to comply with March 28, 2022, Order. *See* Docs. 12, 14. The time for Plaintiff to comply with the March 28 Order therefore expired on May 26, 2022. To date, Plaintiff has not complied with the orders of the Court.

Because of Plaintiff's failure to comply with the Court's orders, the undersigned concludes this case should be dismissed without prejudice. *Moon v. Newsome*, 863 F.2d 835, 837 (11th Cir. 1989) (As a general rule, where a litigant has been forewarned,

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<sup>1</sup> This action was transferred to this Court by Order of the United States District Court for the Southern District of Alabama entered on March 24, 2022. *See* Doc. 8

dismissal for failure to obey a court order is not an abuse of discretion.). The authority of courts to impose sanctions for failure to prosecute or obey an order is longstanding and acknowledged by Rule 41(b) of the Federal Rules of Civil Procedure. *See Link v. Wabash R.R. Co.*, 370 U.S. 626, 629–30 (1962). This authority empowers the courts “to manage their own affairs so as to achieve the orderly and expeditious disposition of cases.” *Id.* at 630–31; *Mingo v. Sugar Cane Growers Co-Op of Fla.*, 864 F.2d 101, 102 (11th Cir. 1989) (holding that “[t]he district court possesses the inherent power to police its docket.”). “The sanctions imposed [upon dilatory litigants] can range from a simple reprimand to an order dismissing the action with or without prejudice.” *Id.*

Accordingly, the undersigned Magistrate Judge RECOMMENDS this case be DISMISSED without prejudice.

It is ORDERED that **by August 10, 2022**, the parties may file objections to this Recommendation. The parties must specifically identify the factual findings and legal conclusions in the Recommendation to which objection is made. Frivolous, conclusive or general objections will not be considered by the Court. This Recommendation is not a final order and, therefore, it is not appealable.

Failure to file written objections to the proposed findings and recommendations in accordance with 28 U.S.C. § 636(b)(1) will bar a party from a de novo determination by the District Court of legal and factual issues covered in the Recommendation and waive the right of the party to challenge on appeal the District Court’s order based on unobjected-to factual and legal conclusions accepted or adopted by the District Court except upon grounds of plain error or manifest injustice. *Nettles v. Wainwright*, 677 F.2d 404 (5th Cir.

1982); 11TH Cir. R. 3–1. *See Stein v. Reynolds Sec., Inc.*, 667 F.2d 33 (11th Cir. 1982); *see also Bonner v. City of Prichard*, 661 F.2d 1206 (11th Cir. 1981) (en banc).

Done, this 27th day of July 2022.

/s/ Charles S. Coody  
CHARLES S. COODY  
UNITED STATES MAGISTRATE JUDGE